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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/979,591	11/16/2001	Udo Winter	WINTER ET AL-4(PCT)	2851

7590

10/02/2002

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EXAMINER

BRAHAN, THOMAS J

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 10/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
**09/979,591**

Applicant(s)  
**WINTER et al**

Examiner  
**Thomas J. Brahan**

Art Unit  
**3652**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Nov 16, 2001
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 12-22 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of:

1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

1. The following order or arrangement is preferred in framing the specification and, except for the reference to the drawings, each of the lettered items should appear in upper case, without underling or bold type, as section headings. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) Title of the Invention.
- (b) Cross-Reference to Related Applications.
- (c) Statement Regarding Federally Sponsored Research or Development.
- (d) Reference to a "Sequence Listing," a table, or a computer program listing appendix submitted on compact disc (see 37 CFR 1.52(e)(5)).
- (e) Background of the Invention.
  - (1) Field of the Invention.
  - (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) Brief Summary of the Invention.
- (g) Brief Description of the Drawings.
- (h) Detailed Description of the Invention.
- (I) Claim or Claims (commencing on a separate sheet).
- (j) Abstract of the Disclosure (commencing on a separate sheet).
- (k) Drawings.
- (l) Sequence Listing, if on paper (see 37 CFR 1.821-1.825).

2. The disclosure is objected to because of the following informalities. The specification should be reviewed for translation errors, such as referring to mounting bracket (6) as a storage rack, and the pivot axes as axles. Page 5 of the specification lacks a description of figure 5. Appropriate correction is required. A substitute specification is suggested.

3. This application contains claims directed to the following patentably distinct species of the claimed invention:

- Species I, shown in figures 3-6
- Species II, shown in figures 7 and 8.
- Species III, shown in figures 16 and 17.
- Species IV, shown in figure 18.

4. This application contains claims directed to the following patentably distinct sub-species of the claimed invention:

- Sub-species A, shown in figures 9-12
- Sub-species B, shown in figure 13 and 14.

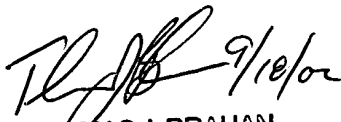
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5. Applicant is required under 35 U.S.C. § 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. If applicant elects species I or species II, a further election of a sub-species is required. Currently, it is unclear as to which claims are generic.
6. Applicant is advised that a response to this requirement must include an identification of the species and sub-species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.
7. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. § 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. M.P.E.P. § 809.02(a).
8. Should applicant traverse on the ground that the species and sub-species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. § 103 of the other invention.
9. To expedite prosecution, an action on the merits of all of the claims follows.
10. The following is a quotation of the second paragraph of 35 U.S.C. § 112:  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which applicant regards as his invention.
11. Claims 12-22 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with errors. For example:

- a. In claim 12, line 2, the boom is claimed with a storage rack (6), however element 6 appears to be a mounting bracket not a storage rack.
- b. Also in line 2 of claim 12, the boom is claimed for at least two girders (2,3) which is not understood.
- c. Line 7 of claim 12 refers to longitudinal axes, which appears to be a translation error, as the term "longitudinal axes" makes more sense.
- d. Lines 7 and 8 of claim 12 recite that the longitudinal axes form an upward arched arc of a circle. However no such axes are shown or evident from the specification and drawings. If the term "axes" were substituted for the term "axles", this would still be inaccurate, as a longitudinal axis, by definition, is a straight line.
- e. In the last line of claim 12, the term "the pivot axis" lacks antecedent basis within the claim. It appears as though the term "axle" in line 5, and throughout the application, should be changed to the term "axis".
- f. It is unclear as to how the slide ways are considered as intermeshed, as recited in claim 13.
- g. Claim 14 uses the term "cylindrical pinion" which appears to be a translation error.
- h. In line 3 of claim 15, the term "a box girder" is redundant as the two box girders are positively included in claim 12.
- i. In claim 15, the term "the other box girder" lacks antecedent basis within the claims.
- j. In claim 16, the terms "the upper and lower cylindrical walls", "the inner box girder", "the box profile", and "the outer box girder" lack antecedent basis within the claims.
- k. Claim 16 is not understood; it does not appear to be a complete sentence.
- l. In claim 17, the terms "the longitudinal channels", "the longitudinal edge frames", "the box profiles" and "the inner girder box" lack antecedent basis within the claims.
- m. In claim 18, the terms "the box girder forming the projecting cantilever end" lacks antecedent basis within the claims.
- n. In claim 18, the term "possibly" fails to positively recite the structure of the invention.
- o. In claim 19, the terms "the arrangement of three box girders", "the middle box girder", and "the box girder on the rack side" lack antecedent basis within the claims.

- p. It is unclear as to how claim 19 can recite that the arrangement of box girders slides in one of the girders of the arrangement.
  - q. Claim 21 is indefinite as it is drawn to a vehicle, while claim 12, from which it depends, is drawn to a boom.
  - r. It is unclear as to how claim 21 can recite that one of the traction members can be shifted relative to the traction member assigned to it.
  - s. In claim 22, it is unclear as to how the traction members can be considered as in hydraulic jacks.
12. The indefinite nature of the claims does not permit rejections based upon prior art.
13. An inquiry concerning this action should be directed to Examiner Thomas J. Brahan at telephone number (703) 308-2568 on Mondays through Fridays from 9:30-7:00 EST. The examiner's supervisor, Ms. Eileen Lillis, can be reached at (703) 308-3248. The fax number for Technology Center 3600 is (703) 305-7687.

  
THOMAS J. BRAHAN  
PRIMARY EXAMINER